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CENTRAL FAX CENTER****OCT 31 2006****PATENT****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Serial No. : 10/729,739 Confirmation No. 3999  
Applicants : Eric G. Hull et al.  
Filed : December 5, 2003  
Title : FITTING FOR ENT TUBING  
Art Unit : 3677  
Examiner : Ruth C. Rodriguez  
Last Office Action : October 18, 2006  
Attorney Docket No. : 427600700087  
Customer No. : 24325

**WITHDRAWAL OF PREMATURE FINAL REJECTION**

**Mail Stop AF**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Withdrawal of the Final Rejection is requested because it is premature.

MPEP §706.07(a) provides in part: "Under present practice, second or any subsequent actions on the merits shall be final, *except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims* nor based on information submitted in an information disclosure statement....."

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I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office to the attention of the Commissioner For Patents at Fax. No. 571-273-8300 on October 31, 2006.

Typed name of the person signing this certificate: H. Duane Switzer, Reg. No. 22,431

Signature: H. Duane SwitzerDate: October 31, 2006

Page 1 of 4

CLI-1462718v1

Oct-31-06

11:57am

From-JD CLEVELAND

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Title:

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Operator's

Re: **U.S. Patent Application Serial No. 10/729,739 filed December 5, 2003**  
**Entitled: Fitting For ENT Tubing**

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## Message:

Dear Examiner Rodriguez:

Enclosed for filing in connection with the above-referenced application is the following:

\* Withdrawal of Premature Final Rejection (4 pp.)

Respectfully submitted,

H. Duane Switzer

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OCT 31 2006

PTO/SB/21 (09-08)

Approved for use through 03/31/2007. OMB 0651-0031

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TRANSMITTAL  
FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

6

Application Number	10/729,739
Filing Date	December 5, 2003
First Named Inventor	Hull et al.
Art Unit	3677
Examiner Name	Ruth C. Rodriguez
Attorney Docket Number	427600700087

## ENCLOSURES (Check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Withdrawal Of Premature Final Rejection
Remarks		

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Jones Day		
Signature	<i>H Duane Switzer</i>		
Printed name	H. Duane Switzer		
Date	October 31, 2006	Reg. No.	22,431

## CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature	<i>H Duane Switzer</i>		
Typed or printed name	H. Duane Switzer	Date	October 31, 2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PTO/SB/17 (07-06)

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Effective on 12/08/2004.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

# FEE TRANSMITTAL

## For FY 2006

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$)

## Complete if Known

Application Number 10/729,739  
Filing Date December 5, 2003  
First Named Inventor Hull et al.  
Examiner Name Ruth C. Rodriguez  
Art Unit 3677  
Attorney Docket No. 427600700087

## METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify):☒ Deposit Account Deposit Account Number: 501432 Deposit Account Name: Jones Day

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below☐ Charge fee(s) indicated below, except for the filing fee☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17☐ Credit any overpayments

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## FEE CALCULATION

## 1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

## 2. EXCESS CLAIM FEES

## Fee Description

Each claim over 20 (including Reissues)

Each independent claim over 3 (including Reissues)

Multiple dependent claims

Total Claims 31 Extra Claims 11 Fee (\$) 1100 Fee Paid (\$)  
 $31 - 20 = 11$  HP = highest number of total claims paid for, if greater than 20.

Indep. Claims 6 Extra Claims 5 Fee (\$) 150 Fee Paid (\$)  
 $6 - 3 = 3$  HP = highest number of independent claims paid for, if greater than 3.

Small Entity Fee (\$)  
50 25  
200 100  
360 180  
Multiple Dependent Claims  
Fee (\$) Fee Paid (\$)

## 3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets 150 Extra Sheets 50 Number of each additional 50 or fraction thereof 1 Fee (\$) 125 Fee Paid (\$)  
 $150 - 100 = 50$  / 50 = 1 (round up to a whole number) x 125 = 125

## 4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge):

Fees Paid (\$)

## SUBMITTED BY

Signature H. Duane Switzer Registration No. 22,431 Telephone (216) 586-3939  
 Name (Print/Type) H. Duane Switzer (Attorney/Agent) Date October 31, 2006

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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